

The opinion in support of the decision being entered today was *not* written
for publication and is *not* binding precedent of the Board

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Mail Stop INTERFERENCE
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Paper No. 73

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JAY K. BASS, JOHN F. McENTEE,
TIM J. LAZARUK and MARYAM MOBED-MIREMADI
Junior Party
(Patent 6,649,348)¹

v.

MARTIN GOLDBERG, MARTIN DIGGELMAN, EARL HUBBELL
GLENN McGALL, NAM QUOC NGO, MACDONALD MORRIS,
MEL YAMAMOTO, JENNIFER TAN and RICHARD P. RAVA
Senior Party
(Application 10/722,032)²

Patent Interference No. 105,422

Before LEE, MEDLEY and MOORE, Administrative Patent Judges.

LEE, Administrative Patent Judge.

¹ Based on Application 09/896,572, filed June 29, 2001. The real party in interest is Agilent Technologies, Inc.

² Filed November 25, 2003. Accorded the benefit of the filing dates of Application 09/716,507, filed November 20, 2000, Application 09/244,568, filed February 4, 1999, and Application 08/634,053, filed April 17, 1996. The real party in interest is Affymetrix, Inc.

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Judgment - Merits -- Bd. R. 127

In a decision on motions dated April 16, 2007, the Board has determined that all of party Goldberg's claims corresponding to the count, i.e., application claims 50-80, are unpatentable under 35 U.S.C. § 112, first paragraph, for lack of written description. Consequently, Goldberg is without standing to proceed further in this interference. It is now time appropriate to enter judgment against party Goldberg. It is

ORDERED that judgment as to the subject matter of the count is herein entered against the senior party MARTIN GOLDBERG, MARTIN DIGGELMAN, EARL HUBBELL, GLENN McGALL, NAM QUOC NGO, MACDONALD MORRIS, MEL YAMAMOTO, JENNIFER TAN and RICHARD P. RAVA;

FURTHER ORDERED that senior party MARTIN GOLDBERG, MARTIN DIGGELMAN, EARL HUBBELL, GLENN McGALL, NAM QUOC NGO, MACDONALD MORRIS, MEL YAMAMOTO, JENNIFER TAN and RICHARD P. RAVA is not entitled to a patent containing its application claims 50-80;

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FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

FURTHER ORDERED that a copy of this judgment be placed in the respective involved application or patent of the parties.

<u>/Jameson Lee/</u>)	
JAMESON LEE)	
Administrative Patent Judge)	
)	
<u>/Sally C. Medley/</u>)	BOARD OF PATENT
SALLY C. MEDLEY)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
<u>/James T. Moore/</u>)	
JAMES T. MOORE)	
Administrative Patent Judge)	

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